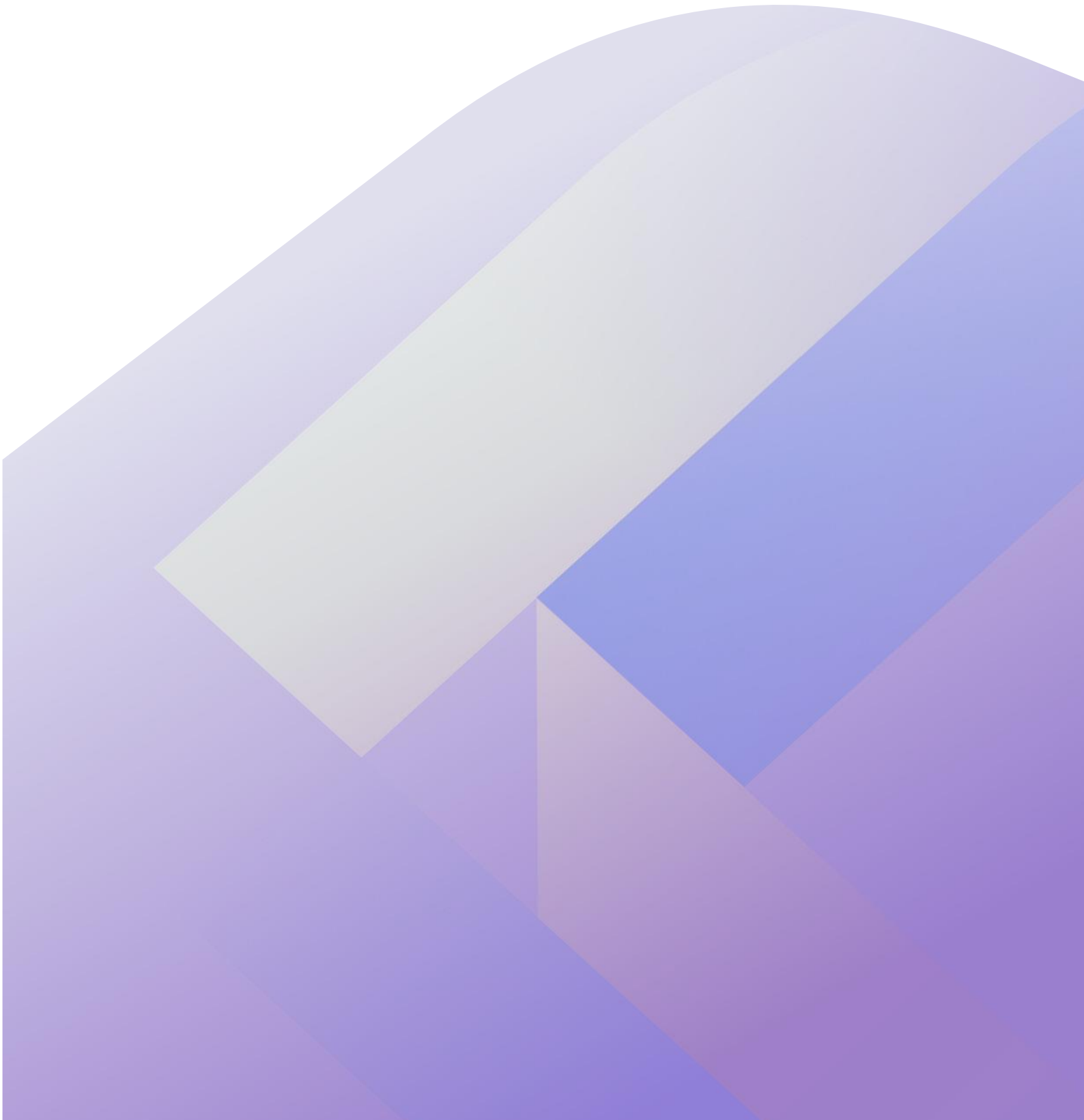


# Consultation Paper

Guidelines for the criteria on the assessment of knowledge and competence under the Markets in Crypto Assets Regulation (MiCA)



## Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex I. Comments are most helpful if they:

1. respond to the question stated;
2. indicate the specific question to which the comment relates;
3. contain a clear rationale; and
4. describe any alternatives ESMA should consider.

ESMA will consider all comments received by **22 April 2025**.

All contributions should be submitted online under the relevant [consultation](#).

### **Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

### **Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading '[Legal Notice and Data protection](#)'.

### **Who should read this paper?**

All interested stakeholders are invited to respond to this Consultation Paper. In particular, ESMA invites crypto-asset service providers, investors and their associations, financial entities dealing with crypto-assets and any other stakeholders that have an interest in the market for crypto-assets.

## Table of Contents

1	Executive Summary .....	4
2	Background .....	5
2.1	Overview .....	5
2.2	Approach followed.....	6
3	Annexes .....	11
3.1	Annex I.....	11
3.2	Annex II: Draft guidelines for the criteria on the assessment of knowledge and competence .....	12

# 1 Executive Summary

## Reasons for publication

The Regulation on Markets in Crypto-Assets (MiCA)<sup>1</sup> was published in the Official Journal of the EU on 9 June 2023. The MiCA provisions relating to the provision of crypto-asset services have entered into application on 30 December 2024. The European Securities and Markets Authority (ESMA) has been empowered to develop technical standards and guidelines specifying certain provisions. ESMA has prepared this Consultation Paper (CP) in order to consult interested parties for the purpose of producing guidelines for the assessment of knowledge and competence of natural persons giving advice on crypto-assets or information about crypto-assets or crypto-asset services, on behalf of crypto-asset service providers.

## Contents

Section 2 explains the background to the proposals. Annex I lists all the questions set out in the CP; and Annex II contains the full text of the draft guidelines.

## Next Steps

ESMA will consider the feedback received to this consultation and expects to publish a final report in Q3 2025.

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<sup>1</sup> Regulation (EU) 2023/1114 of the European Parliament and the Council of 31 May 2023 on markets in crypto-assets (OJ L 150, 9.6.2023, p. 40–205).

## 2 Background

### 2.1 Overview

#### *Legal background*

1. Article 81(15) of MiCA provides for ESMA to issue guidelines specifying the criteria for the assessment of knowledge and competence in accordance with paragraph 7 of this Article.
2. Article 81(7) of MiCA provides that “crypto-asset service providers providing advice on crypto-assets shall ensure that natural persons giving advice or information about crypto-assets, or a crypto-asset service, on their behalf possess the necessary knowledge and competence to fulfil their obligations. Moreover, Member States are required to publish the criteria to be used for assessing such knowledge and competence.”
3. In addition, ESMA is of the view that all crypto-asset service providers, not just those providing advice, should ensure that natural persons giving information about crypto-assets or crypto-asset services possess the necessary knowledge and competence to fulfil their obligations. ESMA therefore is complementing the guidelines issued on the basis of the mandate in Article 81(15) of MiCA by own-initiative guidelines in the same area.

#### *Assessment*

4. Crypto-assets and crypto-asset services are increasingly easily accessible to EU retail investors. For example, such assets and services are available online through various mobile applications or websites that require limited technological knowledge and equipment (e.g., access to the internet and a simple smartphone are often sufficient). Additionally, low minimum investments and 24/7 operation of trading platforms facilitate retail investors’ access to crypto-assets and crypto-asset services.
5. However, it seems that the knowledge of market participants, especially retail investors, about crypto-assets and the related services still seems to be limited.<sup>2</sup>
6. Additionally, the following key features of crypto-asset markets have been observed. Firstly, new crypto-assets continue being created, often very swiftly.<sup>3</sup> Secondly, the volatility of many crypto-assets seems to exceed traditional financial instruments, such as shares.<sup>4</sup>

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<sup>2</sup> According to a study by the UK Financial Conduct Authority, only 42% of adults had heard about crypto-assets in 2019. This ratio has been rising to 73% in 2020, 78% in 2021 and 91% in 2022. Nevertheless, only 74% of the people who had heard of crypto-assets in 2022, were capable to recognise correctly its definition from a list of statements (<https://www.fca.org.uk/publication/research-notes/research-note-cryptoasset-consumer-research-2023-wave4.pdf>).

<sup>3</sup> In December 2024 there were more than 9,000 crypto-assets in the global crypto market (<https://coinmarketcap.com/>).

<sup>4</sup> For example, total market capitalisation of crypto-assets exceeded USD 3 trillion on 10 November 2021, before rapidly falling below USD 850 billion barely 13 months later.

7. As the combination of the above-mentioned factors increases the risk of potential detriment, especially for retail investors with exposure to crypto-assets, it is crucial that staff of crypto-asset service providers who give advice on crypto-assets or information about crypto-assets or crypto-asset services possess, and also maintain, an appropriate level of knowledge and competence to fulfil their obligations set out under MiCA, such as the requirement to act in the best interests of clients.

## 2.2 Approach followed

8. A key objective of the draft guidelines presented in Annex II is to ensure a minimum level of knowledge and competence of staff providing advice and information on crypto-assets or crypto-asset services to clients, to enhance investor protection and foster investors' trust in the crypto-asset markets.
9. To obtain the aforementioned objective, these guidelines have been developed by taking as a reference the MiFID II<sup>5</sup> guidelines on the assessment of knowledge and competence<sup>6</sup>, which also deal, although under MiFID II, with the knowledge and competence of staff giving advice or information about investment products. At the same time, ESMA has used the MIFID II guidelines as a basis only where they could be relevant.<sup>7</sup>
10. Furthermore, certain provisions of the draft guidelines in Annex II aim at ensuring that the criteria for the assessment of knowledge and competence of staff members providing information or advice on crypto-assets or crypto-asset services effectively address features and risks specific to crypto-assets markets and services and which are less prominent or absent in traditional financial markets. Therefore, staff giving information or advice on crypto-assets or crypto-asset services should be knowledgeable about the characteristics, risks and features of distributed ledger technology, crypto-asset services and crypto-assets, as described in paragraph 18 of Guideline 2 (also applicable to staff giving advice).
11. While this CP does not include a draft cost-benefit analysis, ESMA has developed its draft guidelines having due regard to the principle of proportionality and being mindful about the possible costs its contained obligations would create for market participants. ESMA considers that the provisions included in the draft guidelines in the Annex II of this CP do not create new costs for concerned market stakeholders beyond those that naturally stem from the obligations in MiCA. Nevertheless, respondents are invited to highlight in their response any specific concerns the ESMA proposals could raise for them in terms of their associated costs. On this basis, a cost-benefit analysis will be included in the final report for the adoption of the Guidelines.

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<sup>5</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349–496).

<sup>6</sup> See: [https://www.esma.europa.eu/sites/default/files/library/esma71-1154262120-153\\_guidelines\\_for\\_the\\_assessment\\_of\\_knowledge\\_and\\_competence\\_corrigendum.pdf](https://www.esma.europa.eu/sites/default/files/library/esma71-1154262120-153_guidelines_for_the_assessment_of_knowledge_and_competence_corrigendum.pdf)

<sup>7</sup> For example, in contrast to the MIFID II Guidelines, these draft guidelines do not include a guideline relating to the publication of the criteria to assess knowledge and competence by Member States as it is already included in Article 81(7) of MiCA.

*Principles underlying the guidelines for the assessment of knowledge and competence*

12. ESMA considers that these guidelines should be applied in a proportionate manner, taking into account the nature, scale and complexity of a crypto-asset service provider's business and the nature and range of crypto-asset services and activities undertaken in the course of its business.
13. In ESMA's view, the level and depth of knowledge and competence expected for staff providing advice should be of a higher standard than those that only give information on crypto-assets or crypto-asset services. This reflects the fact that the provision of advice is a high value service that requires an enhanced level of investor protection.

*Draft guidelines on the criteria for the assessment of knowledge and competence*

*Guideline 1: General*

14. The purpose of draft Guideline 1 is to ensure that crypto-asset service providers in general take sufficient steps to ensure that their staff providing information or advice on crypto-assets or crypto-asset services possess the necessary knowledge and competence to fulfil their obligations. In particular, crypto-asset service providers should ensure that their staff know, understand and apply the crypto-asset service provider's internal policies and procedures designed to comply with MiCA.
15. Moreover, draft Guideline 1 clarifies that the crypto-asset service provider's management body should, at least annually, assess and review the effectiveness of the policies and procedures established to comply with the obligation to employ staff with knowledge, skills and expertise necessary to discharge their responsibilities (Article 68(5) of MiCA), the specific requirements applicable to crypto-asset service providers providing advice (Article 81(7) of MiCA) and these guidelines, and take appropriate measures to address any related deficiencies.
16. Additionally, draft Guideline 1 sets out a proportionality principle. It stipulates that the level and intensity of knowledge and competence for crypto-asset service providers' staff giving advice on crypto-assets or crypto-asset services should be higher than for those giving only information on such assets and services.
17. Lastly, draft Guideline 1 clarifies that the guidelines apply to staff that are not directly in contact with clients but that do set the parameters and decide on the settings determining the information or advice and their content that will be provided to the clients. ESMA is of the view that this clarification is important as crypto-asset services are often provided in an automated or semi-automated manner.

*Guideline 2: Criteria for knowledge and competence for staff giving information about crypto-assets or crypto-asset services*

18. Draft Guideline 2 clarifies that crypto-asset service providers should ensure that staff giving information about crypto-assets or crypto-asset services have the necessary knowledge and competence to understand key characteristics and risks related to crypto-assets, crypto-asset services they offer as well as the crypto-asset markets in which they operate. This includes features and risks of those crypto-assets available through the crypto-asset service provider (such as volatility and cyber security risks), how crypto-asset markets function and how they affect the value and pricing of crypto-assets.
19. Additionally, draft Guideline 2 sets out the minimum requirements in terms of professional qualification and professional experience for staff to be obtained before giving information about crypto-assets or crypto-asset services on behalf of the crypto-asset service provider.
20. Lastly, draft Guideline 2 addresses the minimum number of hours of continuous professional development (CPD) or training per year for staff giving information about crypto-asset or crypto-asset services on behalf of the crypto-asset service provider.
21. The introduction of these minimum requirements in paragraphs 19 to 21 of draft Guideline 2 aims at improving supervisory convergence across the EU for the criteria to assess knowledge and competence of staff giving information about crypto-assets or crypto-asset services. To ensure that investors in crypto-assets benefit from the same minimum level of protection across the Union, ESMA is of the view that minimum requirements are adequate.
22. In order to ensure flexibility, paragraph 19 of draft Guideline 2 gives crypto-asset service providers several options when looking at the qualification and experience of their staff giving information about crypto-assets and crypto-asset services. To determine such minimum requirements, ESMA took into account existing national requirements under the MiFID II and IDD frameworks.
23. In order to avoid disrupting the market, paragraph 20 takes into account the situation of existing members of staff giving information on crypto-assets or crypto-asset services on the date of entry into application of the guidelines. Crypto-asset service providers will be able to assess that these staff members have the necessary knowledge and competence to fulfil their obligations, if they have successfully demonstrated the ability to give information on crypto-assets or crypto-asset services prior to the entry into application of these guidelines, for a minimum period of 1 year. In combination with the requirements under paragraph 21 regarding minimum continuous professional development and training, Guideline 2 will allow existing staff member to reach and maintain a necessary level of knowledge and competence.
24. Lastly, regarding continuous training and given the rapid pace of evolution of crypto-asset markets, ESMA believes that a minimum number of hours of CPD is appropriate to make sure that staff remain knowledgeable and competent in this highly innovative environment.



25. ESMA is thus looking for feedback on draft Guideline 2 but especially on the minimum requirements regarding qualification, experience and continuous professional development included in paragraphs 19 to 21.

**Q1: Do you agree with the minimum requirements regarding qualification, experience and continuous professional development of staff giving information on crypto-assets and crypto-asset services to clients included in paragraphs 19 to 21 of draft Guideline 2? If not, what would, in your view, be adequate minimum requirements? Please state the reasons for your answer.**

*Guideline 3: Criteria for knowledge and competence for staff giving advice about crypto-assets or crypto-asset services*

26. Draft Guideline 3 clarifies that crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services comply with draft Guideline 2. Additionally, such staff should have a deeper understanding of key characteristics and risks related to crypto-assets, crypto-asset services and the crypto-asset markets in which they operate. This encompasses understanding of the fundamentals of managing a portfolio and the implications of diversification regarding individual investment alternatives.

27. Similarly to draft Guideline 2, draft Guideline 3 addresses the minimum requirements for professional qualification and professional experience for staff giving advice about crypto-assets or crypto-asset services, as well as the minimum number of hours of continuous professional development or training per year.

**Q2: Do you agree with the minimum requirements regarding qualification, experience and continuous professional development of staff giving advice on crypto-assets and crypto-asset services to clients included in paragraphs 24 to 26 of draft Guideline 3? If not, what would, in your view, be adequate minimum requirements? Please state the reasons for your answer.**

*Guideline 4: Organisational requirements for assessment, maintenance and updating of knowledge and competence*

28. In this draft Guideline, ESMA clarifies that crypto-asset service providers' organisational requirements should ensure that the knowledge and competence of the staff giving information and advice on crypto-assets or crypto-asset services is assessed, maintained and updated appropriately.

29. For this purpose, crypto-asset service providers should inter alia ensure that staff providing relevant services to clients are assessed through the successful completion of an appropriate qualification and have gained appropriate experience in the provision of relevant crypto-asset services to clients. Additionally, crypto-asset service providers should ensure that they submit to their competent authority, on request, records concerning knowledge and competence of staff providing relevant services to clients.

**Q3: Do you agree with the proposed draft guidelines? Please state the reasons for your answer.**

**Q4: Are there any additional comments that you would like to raise and/or information that you would like to provide?**

## 3 Annexes

### 3.1 Annex I

#### Summary of questions

**Q1: Do you agree with the minimum requirements regarding qualification, experience and continuous professional development of staff giving information on crypto-assets and crypto-asset services to clients included in paragraphs 19 to 21 of draft Guideline 2? If not, what would, in your view, be adequate minimum requirements? Please state the reasons for your answer.**

**Q2: Do you agree with the minimum requirements regarding qualification, experience and continuous professional development of staff giving advice on crypto-assets and crypto-asset services to clients included in paragraphs 24 to 26 of draft Guideline 3? If not, what would, in your view, be adequate minimum requirements? Please state the reasons for your answer.**

**Q3: Do you agree that with the proposed draft guidelines? Please state the reasons for your answer.**

**Q4: Are there any additional comments that you would like to raise and/or information that you would like to provide?**

## **3.2 Annex II: Draft guidelines for the criteria on the assessment of knowledge and competence**

### **1 Scope**

#### **Who?**

1. These guidelines apply to:
  - a. competent authorities and
  - b. crypto-asset service providers as defined in Article 3(1)(15) of MiCA.

#### **What?**

2. These guidelines apply in relation to the provision of crypto-asset services listed in Article 3(1)(16) of MiCA.

#### **When?**

3. These guidelines apply from 60 calendar days from the date of their publication on ESMA's website, in all official EU languages.

## 2 Legislative references, abbreviations and definitions

### 2.1 Legislative references

ESMA Regulation	Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC <sup>8</sup>
IDD	Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution <sup>9</sup>
MiCA	Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 <sup>10</sup>
MiFID II	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU

### 2.2 Abbreviations

EU	European Union
ESFS	European System of Financial Supervision
ESMA	European Securities and Markets Authority

### 2.3 Definitions

4. Unless otherwise specified, terms used in MiCA have the same meaning in these guidelines. In addition, the following definitions apply:
  - a. 'Staff' means natural persons providing relevant services to clients on behalf of the

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<sup>8</sup> OJ L 331, 15.12.2010, p. 84.

<sup>9</sup> OJ L 26, 2.2.2016, p. 19–59.

<sup>10</sup> OJ L 150, 9.6.2023, p. 40–205.

crypto-asset service provider.

- b. 'Relevant services' means giving advice or information on crypto-assets or crypto-asset services to clients.
- c. 'Giving information' means directly providing information to clients about crypto-assets or crypto-asset services, either upon the request of the clients or at the initiative of the crypto-asset service provider, in the context of the provision by the staff member to the client of any of the services listed in Article 3(1)(16) of MiCA.
- d. 'Knowledge and competence' means having acquired an appropriate qualification and appropriate experience to fulfil obligations in Articles 68 and 81 of MiCA in order to provide the relevant services.
- e. 'Appropriate qualification' means a qualification or other test or training course that meets the criteria set out by these guidelines.
- f. 'Appropriate experience' means that a member of staff has successfully demonstrated the ability to perform the relevant services through previous work. Beyond the minimum requirements regarding appropriate experience set out in these guidelines, the competent authority can differentiate the period of experience required, depending on the appropriate qualification attained by staff and also depending on the relevant services being provided.
- g. 'Under supervision' means providing the relevant services to clients under the responsibility of a staff member who has both an appropriate qualification and appropriate experience.

### **3 Purpose**

- 5. These guidelines, developed by ESMA are based on Article 81(15)(a) of MiCA and Article 16(1) of the ESMA regulation. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of the provisions in Articles 68(5) and 81(7) of MiCA.
- 6. In particular, ESMA expects these guidelines to promote greater convergence in the criteria for the assessment of knowledge and competence of staff providing advice on crypto-assets or information about crypto-assets or a crypto-asset service and their application. These guidelines set important standards to assist crypto-asset service providers in meeting their obligations to act in the best interest of their clients and to assist competent authorities to adequately assess how crypto-asset service providers meet these obligations. In complying with these guidelines, ESMA anticipates a corresponding strengthening of investor protection.

7. The Annex includes a number of illustrative examples of how a crypto-asset service provider might apply the guidelines.

## **4 Compliance and reporting obligations**

### **4.1 Status of the guidelines**

8. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and crypto-asset service providers shall make every effort to comply with these guidelines.
9. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants, ie, crypto-asset service providers. In this case, competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

### **4.2 Reporting requirements**

10. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.
11. A template for notification is available on ESMA's website. Once the template has been filled in, it shall be transmitted to ESMA.
12. Crypto-asset service providers are not required to report whether they comply with these guidelines.

## **5 Draft guidelines for the criteria on the assessment of knowledge and competence**

### **5.1 General (Guideline 1)**

13. Crypto-asset service providers should ensure that staff providing relevant services possess the necessary knowledge and competence to meet the relevant regulatory and legal requirements and business ethics standards.
14. Crypto-asset service providers should ensure that staff know, understand, and apply the crypto-asset service provider's internal policies and procedures designed to ensure compliance with MiCA. In order to ensure a proportionate application of knowledge and competence requirements, crypto-asset service providers should ensure that staff have the necessary levels of knowledge and competence to fulfil their obligations, reflecting the scope and degree of the relevant services provided.
15. The management body of the crypto-asset service provider should, at least on an annual basis, assess and review the effectiveness of the policies and procedures established to comply with Articles 68(5) and 81(7) of MiCA and these guidelines and should take appropriate measures to address any deficiencies identified in that respect.
16. The level and depth of knowledge and competence expected for crypto-asset service providers' staff giving advice on crypto-assets and crypto-asset services should be of a higher standard than those that only give information on crypto-assets and crypto-asset services.
17. Where the information or advice about crypto-assets or crypto-asset services is provided in an automated or semi-automated manner, crypto-asset service providers should ensure that these guidelines apply to staff determining the content of the information or advice that will be provided to the clients and staff setting the parameters and deciding on the settings for such information or advice.<sup>11</sup>

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<sup>11</sup> For example, staff in charge of modelling algorithms for automated or semi-automated advice about crypto-assets or crypto-asset services should have the relevant knowledge and competence in accordance with these guidelines.



## 5.2 Criteria for knowledge and competence of staff giving information about crypto-assets or crypto-asset services (Guideline 2)

18. Crypto-asset service providers should ensure that staff giving information about crypto-assets or crypto-asset services available through the crypto-asset service provider have the necessary knowledge and competence to:
- a. understand the key characteristics, risks and features of the crypto-asset services offered by the crypto-asset service provider and the crypto-assets in the scope of these services, as well as the functioning of distributed ledger technology and the key features and functioning of the different protocols used and the impact they may have for transactions in crypto-assets or crypto-asset services. Particular care should be taken when giving information with respect to risks related to the crypto-assets characterised by higher levels of complexity and volatility;
  - b. understand any general tax implications and costs to be incurred by the client in the context of transactions;
  - c. understand the total amount of costs and charges to be incurred by the client in the context of transactions in crypto-assets, or provision of crypto-asset services, including fees crypto-asset service providers charge for their own services and other costs such as those incurred through the relevant DLT network (e.g., gas fees);
  - d. understand how crypto-asset markets function and how they affect the value and pricing of crypto-assets on which the staff provide information to clients; including
    - the features, functioning and risk of the different types of crypto-assets;
    - the potential impact of investor sentiments and social media on rapid price changes of crypto-assets in very short time periods (“high price volatility”), which may be difficult to predict;
    - the potential impact of holders of large amount of crypto-assets on the liquidity and price volatility in crypto-asset markets<sup>12</sup>;
  - e. understand the impact of economic figures, national/regional/global events (including the establishment or amendment of regulatory frameworks on crypto-assets in jurisdictions outside the EU and the introduction of crypto-asset-based investment products in relevant non-EU markets) on markets and on the value of crypto-assets on which they provide information;

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<sup>12</sup> For example, in relation to liquidity, investors holding a large number of a crypto-asset often keep their holdings for a longer time period, thus decreasing the available supply of the crypto-asset in the market for other investors. Or, relating to volatility, holders of a large number of a crypto-asset may cause significant price movements in the market when they suddenly sell a large portion or the totality of their holdings.

- f. understand the difference between past performance and future performance scenarios as well as the limits of predictive forecasting;
- g. understand the differences between the investor protection safeguards for clients investing in crypto-assets and using crypto-asset services under MiCA and clients investing in financial instruments and using investment services regulated under the MiFID II framework, as well as the impact of these differences on the protection of clients investing in crypto-assets and using crypto-asset services;
- h. understand issues relating to market abuse and anti-money laundering and terrorist financing ;
- i. assess data relevant to the crypto-assets on which the staff provide information to clients such as provided by white papers, financial statements, or financial data;
- j. understand specific market structures for the crypto-assets on which the staff provide information to clients and, where relevant, their trading platforms<sup>13</sup> or the existence of any secondary markets;
- k. understand valuation mechanisms applicable to crypto-assets.

For the purposes of a. above, the key risks to be considered should include, as a minimum:

- volatility;
- cyber security risks, such as risks of hacks and theft of clients' crypto-assets;
- risks related to client's inappropriate storage of their private cryptographic keys;
- IT programming risks, for example malfunctioning of IT programs due to shortcomings in software programming ("bugs") could lead to the loss of clients' crypto-assets;
- risks related to crypto-asset transfers such as the risk of losing crypto-assets, if clients choose a DLT network which is not supported for the transfer of the crypto-asset.

For the purposes of a. above and, more specifically, the understanding of the key features and functioning of specific protocols, staff giving information about crypto-assets or crypto-asset services should notably have a basic understanding of, at least:

- the consensus mechanism applicable to the protocol and its consequences,
- the rules for the validation of transactions on this protocol,
- the scalability of the protocol,

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<sup>13</sup> For example trading platforms for crypto-assets which are open 24 hours.

- its decentralisation level and governance structure, the measures in place to protect the network from attacks or frauds,
  - its interoperability,
  - its use case (the primary purpose or application the protocol is designed to support such as payment systems, supply chain, smart contracts),
  - the economic model governing the crypto-asset, including supply, distribution, and incentives for validation; and
  - the size, activity, and resources of the team and community contributing to the protocol.
19. Crypto-asset service providers should ensure that staff giving information about crypto-assets or crypto-asset services on their behalf have obtained, prior to providing such information, at least:
- a. a professional qualification of at least 80 hours and appropriate experience of at least 6 months under supervision; or
  - b. appropriate experience of at least 1 year under supervision,
- in each case enabling the staff member to acquire the relevant knowledge and competence on the points set out in paragraph 0, to be assessed by passing an obligatory exam organised by the crypto-asset service provider itself or an external provider.
20. Existing members of staff giving information on crypto-assets or crypto-asset services on the date of entry into application of these guidelines may be considered by crypto-asset service providers as having the necessary knowledge and competence to fulfil their obligations by successfully demonstrating the ability to give information on crypto-assets or crypto-asset services on a full-time equivalent basis, under or without supervision, prior to the entry into application of these guidelines and for a minimum period of 1 year.
21. Crypto-asset service providers should determine, based on the nature of the crypto-assets and crypto-asset services on which they give information, the adequate minimum number of hours of continuous professional development or training (CPD) per year that staff giving information about crypto-assets or crypto-asset services should complete. Crypto-asset service providers may also calibrate the number of hours of CPD per year depending on the existing knowledge and competence of staff members giving information about crypto-assets or crypto-asset services.<sup>14</sup> This number should not be inferior to 10 hours. Crypto-asset service providers should ensure that their staff giving information on crypto-assets or crypto-asset services complete the number of hours of CPD required per year, as established by the crypto-asset service providers, either by participating in a CPD scheme operated by an external professional education body providing a recognised qualification

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<sup>14</sup> For example, junior staff may require more CPD hours per year than very senior staff.

or by arranging their own CPD hours. Any of the two organisational options for the CPD should include an examination of participants' acquired knowledge and competence. Competent authorities may publish a list of external professional education bodies providing a recognised qualification.

### **5.3 Criteria for knowledge and competence for staff giving advice about crypto-assets or crypto-asset services (Guideline 3)**

22. Crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services comply with Guideline 2 above, as staff giving such advice will also provide information about crypto-assets or crypto-asset services.
23. In addition, crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services understand:
  - a. the total amount of costs and charges to be incurred by the client in the context of the advice provided, including fees crypto-asset service providers charge for their own services (including for advice) and other costs such as those incurred through the relevant DLT network (e.g. gas fees);
  - b. the obligations of crypto-asset service providers in relation to the suitability requirements under Article 81 of MiCA, including the obligations as set out in the Guidelines on certain aspects of the suitability requirements and format of the periodic statement for portfolio management activities under MiCA<sup>15</sup>;
  - c. how crypto-assets or a specific crypto-asset provided by the crypto-asset service provider may not be suitable for the client, having assessed the relevant information provided by the client against potential changes that may have occurred since the relevant information was gathered;
  - d. the fundamentals of managing a portfolio, including being able to understand the implications of diversification regarding individual investment alternatives.
24. Crypto-asset service providers should ensure that staff giving advice about crypto-assets or crypto-asset services on behalf of the crypto-asset service provider have obtained prior to providing such advice:
  - a. a degree of tertiary education<sup>16</sup> of three years of study and appropriate experience of at least 1 year in the provision of the relevant crypto-asset services under supervision; or
  - b. a secondary education degree and a professional formation of at least 3 years and appropriate experience of at least 1 year in the provision of the relevant crypto-asset services under supervision; or

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<sup>15</sup> Available [here](#).

<sup>16</sup> For example a university degree or equivalent in a field such as economics, law or business administration.

- c. a professional formation of at least 160 hours and appropriate experience of at least 1 year in the provision of the relevant crypto-asset services under supervision; or
  - d. professional experience of at least 2 years which was acquired in the provision of advice under MiFID II or IDD preceding the start of the provision of advice on crypto-assets and crypto-asset services and appropriate experience of at least 6 months in the provision of the relevant crypto-asset services under supervision,
- in each case enabling the staff member to acquire the relevant knowledge and competence on the points set out in paragraphs 18 and 23, to be assessed by passing an obligatory exam organised by the crypto-asset service provider itself or an external provider.

25. Existing members of staff giving advice on crypto-assets or crypto-asset services on the date of entry into application of these guidelines may be considered by crypto-asset service providers as having the necessary knowledge and competence to fulfil their obligations by successfully demonstrating the ability to provide advice on crypto-assets or crypto-asset services on a full-time equivalent basis, under or without supervision, prior to the entry into application of these guidelines and for a minimum period of 1 year.
26. Crypto-asset service providers should determine, based on the nature of the crypto-assets and crypto-asset services on which they give advice, the adequate minimum number of hours of continuous professional development or training (CPD) per year that staff giving advice about crypto-assets or crypto-asset services that are available through the crypto-asset service provider should complete. Crypto-asset service providers may also calibrate the number of hours of CPD per year depending on the existing knowledge and competence of staff members giving advice about crypto-assets or crypto-asset services.<sup>17</sup> This number should not be inferior to 20 hours. Crypto-asset service providers should ensure that their staff giving advice about crypto-assets or crypto-asset services complete the number of hours of CPD required per year, as established by the crypto-asset service providers, either by participating in a CPD scheme operated by an external professional education body providing a recognised qualification or by arranging their own CPD hours. Any of the two organisational options for the CPD should include an examination of participants' acquired knowledge and competence. Competent authorities may publish a list of external professional education bodies providing a recognised qualification.

#### **5.4 Organisational requirements for assessment, maintenance and updating of knowledge and competence (Guideline 4)**

27. Crypto-asset service providers should set out the responsibilities of staff and ensure that, where relevant, in accordance with the services provided by the crypto-asset service

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<sup>17</sup> For example, junior staff may require more CPD hours per year than very senior staff.

provider and its internal organisation, there is a clear distinction in the description of responsibilities between the roles of giving advice and giving information.

28. Crypto-asset service providers should:

- a. ensure that staff providing relevant services to clients are assessed through the successful completion of an appropriate qualification and having gained appropriate experience in the provision of relevant crypto-asset services to clients;
- b. carry out an internal or external review, on at least an annual basis, of staff members' development and experience needs, assess regulatory developments and take action necessary to comply with these requirements. This review should also ensure that staff possess an appropriate qualification and maintain and update their knowledge and competence by undertaking continuous professional development or training, at least in accordance with the relevant minimum requirements set out in these guidelines. This should also include specific training required in advance of any new type of crypto-asset or crypto-asset service being offered by the crypto-asset service provider;
- c. ensure that they submit to their competent authority, on request, records concerning knowledge and competence of staff providing relevant services to clients. These records shall contain information that enables the national competent authority to assess and verify compliance with these guidelines;
- d. ensure that when a member of staff has not acquired the necessary knowledge and competence in the provision of the relevant crypto-asset services, this staff member cannot provide the relevant services. Where a member of staff has not acquired the appropriate qualification or the appropriate experience to provide the relevant crypto-asset services or both, this staff member can only provide the relevant services under supervision. The level and intensity of supervision should reflect the relevant qualification and experience of the staff member being supervised and this could include, where appropriate, supervision during meetings with clients and other forms of communication such as telephone calls and e-mails. A staff member without the necessary knowledge and experience should only be able to work under supervision for a maximum period of 4 years, except where a shorter period is determined by the competent authority;
- e. ensure that, in situations under letter d., the staff member supervising other staff has the necessary knowledge and competence required by these guidelines and the necessary skills and resources to act as a competent supervisor;
- f. ensure that the supervision provided is tailored to the services to be provided by that staff member and cover the requirements of these guidelines relevant to those services;
- g. ensure that the supervisor takes responsibility for the provision of the relevant services when the staff member under supervision is providing relevant services to a client, as if the supervisor is providing the relevant services to the client, including signing-off the suitability report where advice is being provided.

## **6 Annex: Illustrative examples of the application of certain aspects of the guidelines**

### *Examples relating to the scope of the guidelines*

29. The following examples set out instances where a staff member would not fall within the scope of the guidelines:

- a. employees only pointing out where clients can find information provided by the crypto asset service provider;
- b. employees distributing brochures and leaflets to clients without giving additional information with regards to its content or providing any follow up crypto-asset services to those clients;
- c. employees who only hand over information at the client's request without giving any additional information with regards to its content or providing any follow up crypto-asset services to those clients; and
- d. employees who perform back-office functions without direct relevance for clients, and do not have direct contact with the clients.<sup>18</sup>

### *General examples relating to Guideline 1:*

30. A crypto-asset service provider provides regular mandatory training to staff in the area of MiCA conduct of business, and organisational requirements.
31. The crypto-asset service provider adopts a code of ethics to set forth the standards of business conduct and behaviour necessary for the proper provision of relevant services and obtain written acknowledgements from staff that they have read, understood and complied with it.

### *Examples relating to the Guidelines 1, 2 and 3:*

32. A crypto-asset service provider provides regular mandatory training to staff in the features and characteristics, including potential risks, of the crypto-assets offered by the provider. This comprises training about products newly offered by the crypto-asset service provider.
33. A crypto-asset service provider ensures its staff are familiar with the situations in which conflicts of interest arise and how to apply the policies and procedures to identify, prevent, manage and disclose conflicts of interest established by the crypto-asset service provider in accordance with Article 72 of MiCA.

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<sup>18</sup> However, employees in charge of drafting and publishing information with direct relevance for clients (e.g. - information regarding crypto-assets including recommendations to buy crypto-assets available on their platform) would be in scope of these guidelines, even though they may not be in direct contact with clients.



34. A crypto-asset service provider ensures its staff are familiar with the situations as to when a crypto-asset service provider may pay or receive an inducement and the relevant legal requirements regulating inducements.

*Examples relating to the Guidelines 3 and 4*

35. A crypto-asset service provider regularly monitors the suitability assessments provided by staff to assess whether the staff member has considered all aspects of the suitability requirements, against the specific details of the crypto-asset.

36. A crypto-asset service provider regularly monitors that relevant staff giving advice demonstrate:

- a. ability to ask appropriate questions to the client to understand her/his investment objectives, financial situation and knowledge and experience;
- b. ability to explain the risks and rewards of a particular crypto-asset or strategy to the client;
- c. ability to compare selected crypto-assets with regards to key features and risks, to be able to select the crypto-asset best suited to the client profile.

*Examples relating to Guideline 4*

37. The crypto-asset service provider documents staff roles and responsibilities and evaluates their performance against key set criteria contained in the description of responsibilities.

38. Crypto-asset service providers communicate publicly, in a way that is consistent and meaningful to clients, their criteria for demonstrating how staff comply with these guidelines.

39. Continuous or on-going professional development is required in order for staff to hold the “appropriate qualification”. This ongoing assessment will contain updated material and will test staff on their knowledge of, for example, regulatory changes, new crypto-assets and services available on the market. This ongoing assessment:

- a. may involve training in the form of courses, seminars, independent studies or learning; and
- b. includes an exam to verify that the staff has acquired the necessary knowledge and competence.

40. Crypto-asset service providers verify the relevance of continuous on-going development being provided to staff providing relevant services.